

## **Assembly Bill No. 1551**

### **CHAPTER 555**

An act to amend Sections 50650.3, 51345, and 51505 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2012. Filed with  
Secretary of State September 25, 2012.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

##### **AB 1551, Torres. Housing.**

Existing law establishes the CalHome Program, administered by the Department of Housing and Community Development, to enable low- and very low income households to become or remain homeowners. Existing law requires the department, under the program, to provide grant or loan funds to local public agencies or nonprofit corporations for specified purposes relating to the promotion of home ownership. Existing law requires that financial assistance provided to individual households be in the form of deferred payment loans, repayable upon sale or transfer of the homes, when they cease to be owner-occupied, or upon the loan maturity date.

This bill would, notwithstanding any other law, authorize the department to permit the downpayment assistance loan to be subordinated to refinancing if it determines that the borrower and the proposed subordination meet certain requirements.

Existing law requires the California Housing Finance Agency to administer the California Homebuyer's Downpayment Assistance Program for the purpose of assisting first-time low- and moderate-income homebuyers utilizing existing mortgage financing. Existing law authorizes a borrower to refinance a mortgage under specified circumstances. Existing law authorizes the agency, in its discretion, to permit a downpayment assistance loan to be subordinated to refinancing if it determines that certain criteria have been met. Existing law authorizes the agency to permit subordination on those terms and conditions as it determines are reasonable.

Existing law requires the California Housing Finance Agency to administer the Home Purchase Assistance Program for the purpose of assisting first-time homebuyers utilizing existing mortgage financing. Existing law also requires the agency to administer the Extra Credit Teacher Home Purchase Program, as specified, and any other school personnel home ownership assistance program that is set forth by the California Debt Limit Allocation Committee.

This bill would further extend the authority of the agency to permit a downpayment assistance loan made under any of those programs to be subordinated to refinancing, subject to certain criteria and under terms and

conditions as the agency determines are reasonable, unless the borrower has sufficient equity to repay the loan.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 50650.3 of the Health and Safety Code is amended to read:

50650.3. (a) Funds appropriated for purposes of this chapter shall be used to enable low- and very low income households to become or remain homeowners. Funds shall be provided by the department to local public agencies or nonprofit corporations as either of the following:

(1) Grants for programs that assist individual households.

(2) Loans that assist development projects involving multiple home ownership units, including single-family subdivisions.

(b) (1) Grant funds may be used for first-time homebuyer downpayment assistance, home rehabilitation, including the installation or retrofit of ignition resistant exterior components on existing manufactured homes, mobilehomes, and accessory structures required pursuant to Article 2.3 (commencing with Section 4200) of Subchapter 2 of Chapter 3 of Division 1 of Title 25 of the California Code of Regulations, homebuyer counseling, home acquisition and rehabilitation, or self-help mortgage assistance programs, or for technical assistance for self-help and shared housing home ownership.

(2) Home rehabilitation funding for the purpose of installing ignition resistant components on manufactured homes, mobilehomes, or accessory structures pursuant to this subdivision shall not be conditioned upon the rehabilitation of additional or unrelated home components unless that rehabilitation is required pursuant to Article 2.3 (commencing with Section 4200) of Subchapter 2 of Chapter 3 of Division 1 of Title 25 of the California Code of Regulations. In administering funding for this purpose, local public agencies and nonprofit corporations may consider the condition and age of the manufactured home or mobilehome, including whether the home was constructed on or after June 15, 1976, in accordance with federal standards and whether the available funds could be more effectively used to replace the manufactured home or mobilehome.

(c) (1) Except as provided in subdivision (e), loan funds may be used for purchase of real property, site development, predevelopment, and construction period expenses incurred on home ownership development projects, and permanent financing for mutual housing or cooperative developments. Upon completion of construction, the department may convert project loans into grants for programs of assistance to individual homeowners. Except as provided in paragraph (2), financial assistance provided to individual households shall be in the form of deferred payment loans, repayable upon sale or transfer of the homes, when they cease to be

owner-occupied, or upon the loan maturity date. Financial assistance may be provided in the form of a secured forgivable loan to an individual household to rehabilitate, repair, or replace manufactured housing located in a mobilehome park and not permanently affixed to a foundation. The loan shall be due and payable in 20 years, with 10 percent of the original principal to be forgiven annually for each additional year beyond the 10th year that the home is owned and continuously occupied by the borrower. Not more than 10 percent of the funds available for the purposes of this chapter in a fiscal year shall be used for financial assistance in the form of secured forgivable loans.

(2) Notwithstanding any other law, the department may, in its discretion, permit the downpayment assistance loan to be subordinated to refinancing if it determines that the borrower has demonstrated hardship, subordination is required to avoid foreclosure, and the new loan meets the department's underwriting requirements. The department may permit subordination on those terms and conditions as it determines are reasonable, however subordination shall not be permitted if the borrower has sufficient equity to repay the loan.

(d) All loan repayments shall be used for activities allowed under this section, and shall be governed by a reuse plan approved by the department. Those reuse plans may provide for loan servicing by the grant recipient or a third-party local government agency or nonprofit corporation.

(e) Notwithstanding subdivision (c), loans provided pursuant to the CalHome Program Disaster Assistance for Imperial County that have been made for the purpose of rehabilitation, reconstruction, or replacement of lower income owner-occupied manufactured homes shall be due and payable in 10 years, with 20 percent of the original principal to be forgiven annually for each additional year beyond the fifth year that the manufactured home is owned and continuously occupied by the borrower.

SEC. 2. Section 51345 of the Health and Safety Code is amended to read:

51345. (a) The agency shall administer a home purchase assistance program in accordance with this chapter. The purpose of the home purchase assistance program is to assist first-time homebuyers to utilize existing mortgage financing available pursuant to this part or Division 4 (commencing with Section 800) of the Military and Veterans Code with the additional financial resources made available pursuant to Part 8 (commencing with Section 53130).

(b) Home purchase assistance under this chapter shall include, but not be limited to: (1) an interest rate subsidy to reduce the interest rate, (2) a deferred-payment, low-interest, second-mortgage loan to reduce the principal and interest payments, and (3) downpayment assistance to make financing affordable to first-time homebuyers.

(c) In no case shall the interest rate subsidy reduce the effective interest rate to the borrower below 3 percent per annum, nor shall the deferred-payment, low-interest, second mortgage loan exceed 49 percent of the total debt financing necessary to purchase the home.

(d) The amount of home purchase assistance shall be a second mortgage loan secured by a deed of trust of second priority to the primary financing provided by the agency or the Department of Veterans Affairs. The term of the home purchase assistance shall not exceed the term of the primary loan.

(e) (1) Except as provided in paragraph (2), the amount of home purchase assistance shall be due and payable at the end of the term, upon the sale of the home, or upon refinancing. The borrower may refinance the mortgages on the home if the principal of and accrued interest on the second mortgage loan securing the home purchase assistance are repaid in full. All repayments shall be deposited in the fund.

(2) The agency may, in its discretion, permit the downpayment assistance loan to be subordinated to refinancing if it determines that the borrower has demonstrated hardship, subordination is required to avoid foreclosure, and the new loan meets the agency's underwriting requirements. The agency may permit subordination on those terms and conditions as it determines are reasonable, but subordination is not permitted if the borrower has sufficient equity to repay the loan.

SEC. 3. Section 51505 of the Health and Safety Code is amended to read:

51505. (a) In addition to the downpayment assistance program authorized by Section 51504, and notwithstanding any provision of Section 51504 to the contrary, the agency shall provide downpayment assistance from the funds set aside pursuant to subparagraph (D) of paragraph (7) of subdivision (a) of Section 53533 for the purposes of the portion of the Extra Credit Teacher Home Purchase Program provided for in subdivision (g) of Section 8869.84 of the Government Code and any other school personnel home ownership assistance programs as set forth by the California Debt Limit Allocation Committee, as operated by the agency. Notwithstanding the foregoing, the agency may, but is not required to, provide downpayment assistance pursuant to this section to any local issuer participating in the Extra Credit Teacher Home Purchase Program and any other school personnel home ownership assistance programs as set forth by the California Debt Limit Allocation Committee.

(b) (1) Downpayment assistance for purposes of this section shall be subject to, and shall meet the requirements of, the Extra Credit Teacher Home Purchase Program and any other school personnel home ownership programs as set forth by the California Debt Limit Allocation Committee, and shall include, but not be limited to, deferred payment, low interest rate loans.

(2) Except as provided in paragraph (3), payment of principal and interest is deferred until the time that the home is sold or refinanced.

(3) The agency may, in its discretion, permit the downpayment assistance loan to be subordinated to refinancing if it determines that the borrower has demonstrated hardship, subordination is required to avoid foreclosure, and the new loan meets the agency's underwriting requirements. The agency may permit subordination on those terms and conditions as it determines

are reasonable, but subordination is not permitted if the borrower has sufficient equity to repay the loan.

(4) This downpayment assistance shall meet the requirements of subdivisions (d) and (e) of Section 51504.

(c) Loans made pursuant to this section may include a provision whereby interest, principal, or both, of the loan is forgiven upon conditions to be established by the agency, or any other provision designed to carry out the purposes of the Extra Credit Teacher Home Purchase Program and any other school personnel home ownership programs as set forth by the California Debt Limit Allocation Committee.

(d) Downpayment assistance pursuant to this section shall not exceed the greater of seven thousand five hundred dollars (\$7,500) or 3 percent of the home sales price. However, the agency may, with the concurrence of the California Debt Limit Allocation Committee, establish higher assistance limits where necessary to ensure sufficient assistance to allow program participation in high cost areas.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for underwater homeowners to participate in the federal Home Affordable Refinance Program (HARP) at the earliest possible time, it is necessary that this act take effect immediately.